

COMMONWEALTH OF MASSACHUSETTS

Labor Relations Commission

Fiscal Year 2002 Annual Report

It is hereby declared to be the policy of the commonwealth to [encourage] the practice and procedure of collective bargaining ... by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

- M.G.L. c.150A, §1

Jane M. Swift, *Governor*

Helen A. Moreschi, *Chairwoman*

Mark A. Preble, *Commissioner*

Peter G. Torkildsen, *Commissioner*





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November 15, 2002

EDWARD B. SREDNICKI
EXECUTIVE SECRETARY

Her Excellency Jane Swift, Governor
The Great and General Court
Citizens of the Commonwealth

In accordance with M.G.L. c.23, 90, we are pleased to present the Fiscal Year 2002 Annual Report of the Massachusetts Labor Relations Commission.

This year proved to be especially challenging in the wake of substantial budget cuts. Our staff was reduced by approximately 40%. We were again forced to re-focus our efforts on reorganization and the reassessment of service and delivery. We accomplished this work successfully with the cooperation, hard work and diligent efforts of staff and our management team. Again our Annual Report reflects their steady commitment to public service in Labor Relations.

Respectfully Submitted,


Helen A. Moreschi, Chairwoman


Mark A. Preble, Commissioner

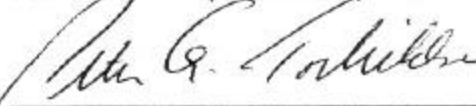

Peter G. Torkildsen, Commissioner

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What is the Labor Relations Commission?

The Labor Relations Commission was established in 1937 to administer Chapter 150A of the General Laws, the Commonwealth's private sector collective bargaining law. That law is sometimes referred to as the "Baby Wagner Act" because it mirrors the rights and obligations established at the federal level by the Wagner Act (which is commonly referred to as the National Labor Relations Act). The National Labor Relations Act grants employees the right to form and join unions and requires employers and employee organizations to bargain in good faith over wages, hours, and working conditions. However, both the National Labor Relations Act and Chapter 150A specifically excluded (and continue to exclude) public employees from coverage.

Following the lead set by President Kennedy in 1962, in 1965, the legislature enacted a series of amendments to Chapter 149, granting full collective bargaining rights to public employees in Massachusetts. Those same amendments charged the Labor Relations Commission with administering the new law. Finally, in 1973, the legislature enacted Chapter 150E, the present public employee collective bargaining law.

Over the years, as the Commission's public sector responsibilities increased, its private sector responsibilities have decreased. Changes in jurisdiction under the National Labor Relations Act have virtually eliminated the Commission's jurisdiction over employers under the state private sector statute. Today, more than 99% of the Commission's work is in the public sector.

What Services Does the Commission Provide?

Pursuant to its responsibility to ensure prompt and fair resolution of labor disputes, the Commission provides the following services:

1. Disposition of Charges of Prohibited Practice

Approximately 85% of the Commission's work is dedicated to adjudicating charges of prohibited practice under M.G.L. c.150A or M.G.L. c.150E. Charges of prohibited practice may include: allegations that an employer discriminated or retaliated against an employee because the employee had engaged in activities protected by law; allegations that an employer or employee organization failed to bargain in good faith; or allegations that an employee organization failed to properly represent a member of the bargaining unit.

When a charge of prohibited practice is filed, the Commission conducts an investigation by asking both parties to submit written position statements, supported by

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affidavits or other documentary evidence to support the allegations in the charge or any defenses raised by the respondent. After both parties have filed their evidence, the Commission determines whether there is probable cause to believe that the law was violated in the manner alleged. If the Commission finds probable cause, it will issue a complaint of prohibited practice and schedule a hearing before a hearing officer. If the Commission finds that the evidence submitted is insufficient to establish probable cause, it will dismiss the charge and notify the parties by letter. In FY02, approximately 40% of the charges of prohibited practice were dismissed following an investigation. Cases dismissed following an investigation may be appealed to the Appeals Court.

If the Commission issues a complaint of prohibited, a hearing officer will conduct a hearing and the Commission will issue a decision. However, conciliation efforts by the Commissioners and hearing officers often result in voluntary resolution of a case prior to litigation. In FY02, conciliation efforts prior to litigation resulted in the voluntary resolution of approximately 74% of the cases in which the Commission had issued a complaint of prohibited practice. The Commission's final decisions may also be appealed to the Appeals Court.

2. Conduct of Representation Elections and Bargaining Unit Determination

The Commission conducts secret ballot elections for employees to determine whether they wish to be represented by a union. Elections are conducted whenever: 1) an employer files a petition alleging that one or more employee organizations claim to represent a substantial number of employees in a bargaining unit; 2) an employee organization files a petition alleging that a substantial number of employees wish to be represented by the petitioner; or 3) an individual files a petition alleging that a substantial number of employees in the bargaining no longer wish to be represented by the current employee organization. Depending on the size of the unit and the relative cost, the Commission conducts elections either on location or by mail ballot.

The Commission is statutorily required to determine an "appropriate" bargaining unit. To make that determination, the Commission considers community of interest among the employees, the employer's interest in maintaining an efficient operation, and the employees' interest in being effectively represented.

The Commission assists and encourages the parties to reach agreement concerning an appropriate unit. In FY02, the Commission resolved approximately 85% of its representation cases through voluntary agreement over the scope of the bargaining unit. When no agreement is reached, however, the Commission conducts a hearing, issues a written decision, and, when necessary, directs an election. In FY01, the Commission conducted forty-seven (47) elections involving 1,018 employees.

3. Prevention and Termination of Strikes

Strikes by public employees in Massachusetts are illegal. When a public employer believes that a strike has occurred or is imminent, the employer may file a petition with the Commission for an investigation. The Commission quickly investigates the allegations contained in the petition and decides whether an unlawful strike has occurred or is about to occur. If unlawful strike activity is found, the Commission directs striking employees to return to work and issues other orders designed to help the parties resolve the underlying dispute. Most strikes end after issuance of the Commission's order, but judicial enforcement of the order sometimes necessitates Superior Court litigation which can result in court-imposed sanctions against strikers.

4. Agency Service Fee Determinations

Chapter 150E allows public employers to enter into collective bargaining agreements which require non-union employees covered by the agreement to pay an agency service fee to the union, "commensurate with the cost of collective bargaining and contract administration," as a condition of continued employment. Employees may challenge either the amount of the annual agency service fee or the manner in which the fee was demanded by filing a charge with the Commission. Such charges often require a detailed evaluation of the union's expenses. Hundreds of charges are filed each year raising questions of constitutional rights, auditing and accounting practices, and labor policy. On November 29, 2001, following the Supreme Judicial Court's decision in James J. Belhumer et al. v. Labor Relations Commission, 432 Mass 458 (2000), the Commission issued a Supplemental Decision and Order on Remand in a consolidated agency service fee case involving several hundred charging parties and the Massachusetts Teachers Association/National Education Association (MTA/NEA). With the end of the litigation, the compliance phase commenced, requiring further decisions concerning whether specific charging parties were or were not entitled to a refund under the Commission's November 29, 2001 Order. On July 17, 2002, the Commission issued its First Supplemental Decision on Compliance, interpreting an agreement between the charging parties and the MTA/NEA to resolve additional matters based on the Commission's decision in Belhumer.

The Commission is now actively working with all parties to ensure an orderly compliance process. Finally, although the prior litigation involved only demands made between 1987 and 1992, several hundred additional charges have been filed concerning subsequent demands (through 2002). The Commission is currently facilitating a resolution to those subsequent cases.

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5. Court Litigation

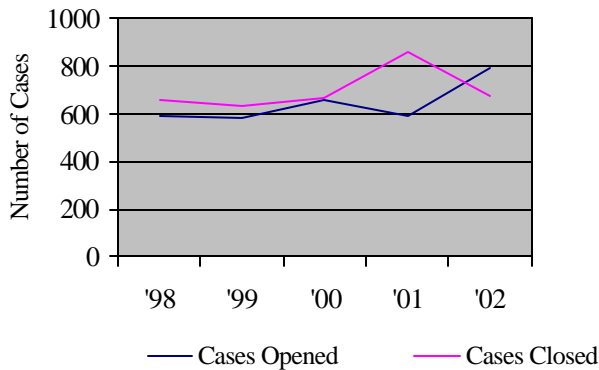
Parties to final decisions issued by the Commission may appeal the decision to the Massachusetts Appeals Court. In those cases, in addition to serving as the lower court—responsible for assembling and transmitting the record for appellate review—the Commission is the appellee and defends its decision on appeal. Although a rare occurrence (there were no cases in FY02), M.G.L. c.150E also authorizes the Commission to seek judicial enforcement of its final orders in the Appeals Court or of its interim orders in strike cases in Superior Court. Commission attorneys represent the Commission in all litigation activities.

6. Other Responsibilities

- ❑ Unit clarification (CAS) petitions are filed by employee organizations or employers seeking to clarify or amend a recognized or certified bargaining unit. The Commission investigates and, where necessary, conducts hearings and issues decisions resolving those disputes. In FY02, the Commission processed twenty-nine (29) CAS petitions.
- ❑ M.G.L. c.150E provides that a party to a collective bargaining agreement that does not contain a grievance procedure culminating in final and binding arbitration may petition the Commission to order grievance arbitration. These "Requests for Binding Arbitration" (RBA) are processed quickly by the Commission to assist the parties to resolve their grievances. In FY02, the Commission received five (5) requests for binding arbitration.
- ❑ Pursuant to M.G.L. c.150E, §§13 and 14, the Commission maintains files on employee organizations. Those files include: the name and address of current officers, address where notices can be sent, date of organization, date of certification, and expiration date of signed agreements. Every employee organization is also required to file an annual report with the Commission containing: the aims and objectives of such organization, the scale of dues, initiation fees fines and assessments to be charged to the members, and the annual salaries to be officers. Although M.G.L. c.150E authorizes the Commission to enforce these annual filings by commencing an action in the Superior Court, the Commission's current resources prohibit such action. Instead, the Commission uses various internal case-processing incentives to encourage compliance with the filing requirements.
- ❑ The Commission has an educational goal aimed at training labor and management representatives to foster better labor relations and to reduce the number of preventable or unnecessary charges filed at the Commission.

Caseload Analysis

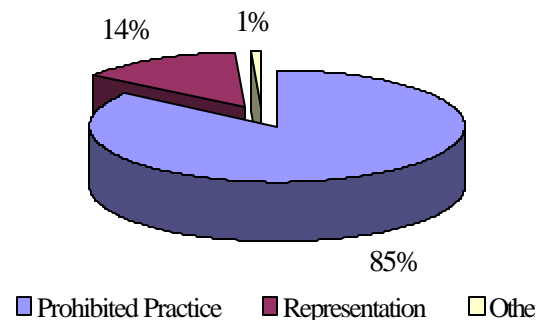
Cases Opened/Closed



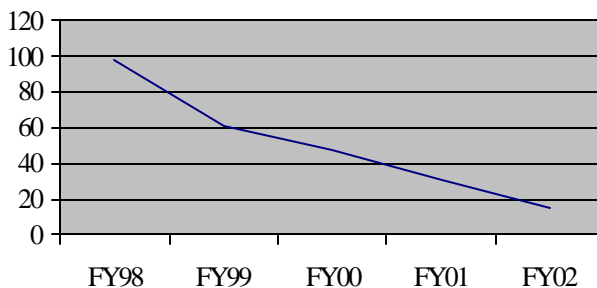
In FY02, the Commission opened 792 new non-agency service fee cases, a sharp increase over FY01. The Commission also closed 677 cases, slightly less than its five-year average. The chart to the left shows the number of cases open and closed for the past five fiscal years.

Types of Cases

Most of the cases that the Commission processes fall into one of two categories: prohibited practice charges or representation cases. In FY02, the Commission opened 674 non-agency service fee prohibited practice charges and 111 representation cases. The chart to the right shows the breakdown of the kinds of cases that were filed in FY02.



Targeted Cases Initiative



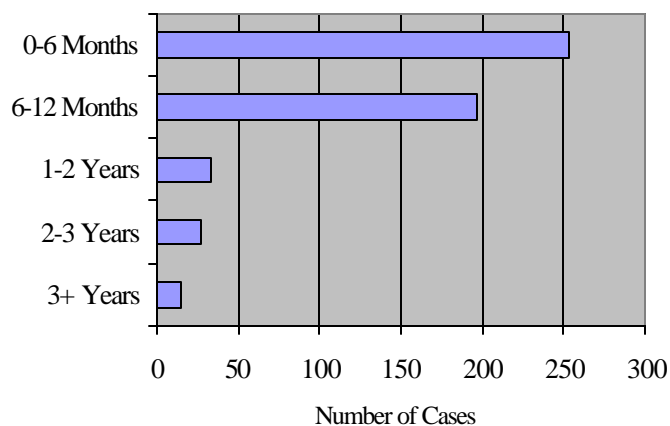
In FY96, the Commission began to focus on the oldest cases in the agency. At that time, there were nearly 100 cases that had been pending for three or more years. The Commission “targeted” any case that would be three years old or older by the close of the fiscal year and closed nearly 40% of those cases in the first year of the initiative. In the years since, the

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Commission has continued to target its older cases and, as of the close of FY02, had only fifteen remaining targeted cases. The chart on the preceding page shows the number of cases that were three years old or older in each of the years since we began this initiative.

Open Docket

The success of the targeted cases initiative is apparent in the age of the Commission's open docket. As of June 30, 2002, nearly 50% of the cases on Commission's open docket has been pending for six months or less and more than 85% were pending for one year old or less.



Prohibited Practice Charges

The table below shows who filed prohibited practice charges at the Commission in FY02.

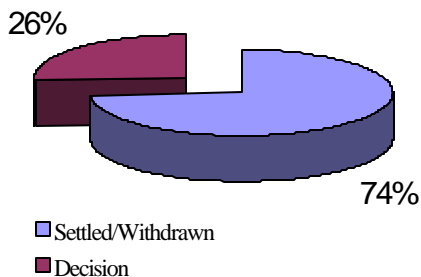
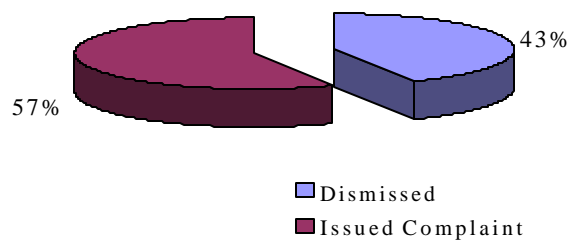
| Charges Filed Against Employers | No. |
|--|------------|
| ♦ By Employee Organizations | 522 |
| ♦ By Individuals | 18 |
| Charges Filed Against Employee Organizations | |
| ♦ By Employers | 17 |
| ♦ By Other Employee Organizations | 0 |
| ♦ By Individuals | 127 |
| Total | 674 |

The table below shows whom prohibited practice charges were filed against in FY02.

| Respondent | No. |
|---|------------|
| Commonwealth of Massachusetts (all Agencies and Departments) | 83 |
| Municipalities | 249 |
| School Districts | 160 |
| Counties | 20 |
| Housing Authorities | 6 |
| Other | 13 |
| Private Employers | 4 |
| Employee Organizations | 139 |
| Total | 674 |

Investigation and Hearing

M.G.L. c.150E, §11 requires the Commission to conduct an investigation whenever a charge of prohibited practice is filed. In FY02, the Commission completed 356 investigations. The investigations resulted in 201 complaints of prohibited practice. The remaining 150 cases were dismissed. The Commission also deferred 5 cases to the parties' contractual grievance/arbitration procedure. In addition, more than 150 cases were settled or withdrawn prior to or during the investigation.

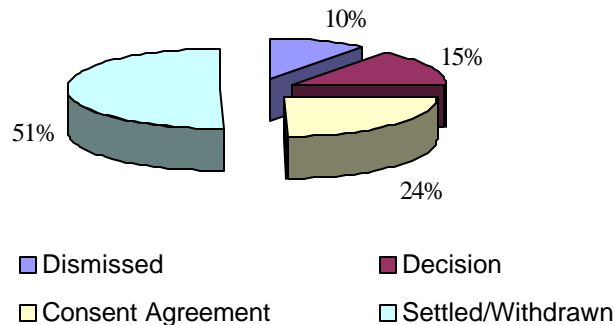


Of the cases completed following the issuance of a complaint of prohibited practice, 74% (173) were resolved prior to litigation and the Commission issued decisions in the remaining 61 cases. Please refer to pages 11 through 16 for a complete list of decisions issued in FY02.

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Representation/Unit Clarification Petitions

The Commission resolved nearly 85% (106) of all representation/unit clarification petitions without litigation. The chart below shows how the Commission resolved representation/unit clarification cases during FY02. Please refer to pages 11 through 16 for a complete list of decisions issued in FY02.



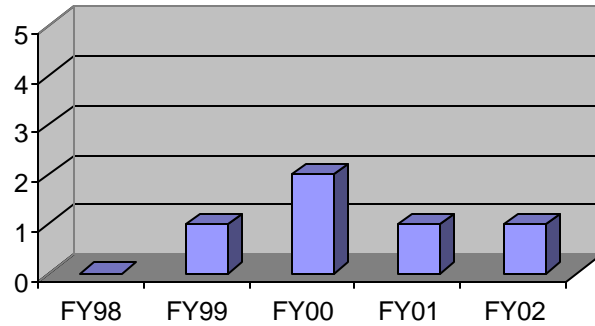
Elections

In FY02, the Commission conducted thirty-eight elections involving 1,103 voters. Below is a breakdown of the Commission election activity.

| Size of Unit | Municipal | | State | | Private | | Total | |
|--------------|------------------|--------------|------------------|--------------|------------------|--------------|------------------|--------------|
| | No. of Elections | No of Voters | No. of Elections | No of Voters | No. of Elections | No of Voters | No. of Elections | No of Voters |
| Under 10 | 16 | 90 | | | | | 16 | 90 |
| 10-24 | 9 | 146 | | | | | 9 | 146 |
| 25-49 | 6 | 184 | 1 | 27 | | | 7 | 211 |
| 50-74 | 2 | 109 | | | 1 | 64 | 3 | 173 |
| 75-99 | 2 | 245 | | | | | 2 | 245 |
| 100-149 | | | | | | | | |
| 150-199 | | | | | | | | |
| 200-499 | | | 1 | 238 | | | 1 | 238 |
| Total | 35 | 774 | 2 | 265 | 1 | 64 | 38 | 1,103 |

Strikes

In FY02, the Commission processed one strike petition. See p. 17 for a discussion about how the Commission disposed of that petition. The chart to the right shows the number of strike petitions the Commission processed between FY98 and FY02.



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Budget

| | | |
|----------------------------------|---------------|-------------------------|
| FY02 Appropriation | | 1,072,111 |
| AA-Employee Compensation | 992,271 | |
| BB-Travel/Training | 5,320 | |
| DD-Pension/Insurance | 11,923 | |
| EE-Administrative Expense | 30,232 | |
| GG-Space Rental | 7,256 | |
| HH-Consultant Services | 3,116 | |
| JJ- Operational Services | 0 | |
| KK-Equipment Purchase | 0 | |
| LL-Equipment Lease & Maintenance | <u>19,760</u> | |
| Total Spending | | <u>1,069,878</u> |
| Uncommitted Balance (Reverted) | | 2,233 |

Decisions Issued in FY02

COMMONWEALTH OF MASSACHUSETTS and ALLIANCE, AFSCME-SEIU, LOCAL 509, Case No. SUP-4164 (7/18/01) 28 MLC 64(2001)

TOWN OF EAST LONGMEADOW and INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 482, Case No. MUP-1568 (7/18/01) 28 MLC 67 (2001)

TOWN OF SHREWSBURY and INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 426, Case No. MUP-1701 (7/18/01) 28 MLC 70 (2001)

SHERIFF OF SUFFOLK COUNTY and LOCAL 3697, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 93, AFL-CIO, Case No. MUP-2382 (7/18/01) 28 MLC 72 (2001)

WORCESTER COUNTY (JAIL AND HOUSE OF CORRECTION) and MASSACHUSETTS CORRECTION OFFICERS FEDERATED UNION, Case No. MUP-1323 (7/18/01) 28 MLC 76 (2001)

TOWN OF SAUGUS and SPECIAL OPERATIONS UNIT and LOCAL 413, INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS and LOCAL 366, INTERNATIONAL BROTHERHOD OF POLICE OFFICERS and SAUGUS POLIC UNION, Case No. MCR-4627 (7/18/01) 28 MLC 80 (2001)

TOWN OF NATICK and NATICK FIREFIGHTERS, LOCAL 1707, IAFF, Case No. MUP-1058 (8/8/01) 28 MLC 85 (2001)

PEABODY MUNICIPAL LIGHT DEPARTMENT and AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 93, AFL-CIO, Case No. MUP-2351 (8/9/01) 28 MLC 88 (2001)

UNITED AUTO WORKERS , LOCAL 2322/GEO and JAMES SSHAW, as President of UNTIED AUTO WORKERS, LOCAL 2322/GEO and UNIVERSITY OF MASSACHSUETTS (AMHERST), Case No. SI-265 (8/29/01) 28 MLC 91 (2001)

BOARD OF HIGHER EDUCATION and MASSACHUSETTS COMMUNITY COLLEGES COUNCIL/DCE/MTA, Case Nos. SUP-4442, SUP-4638 (8/31/01) 28 MLC 94 (2001)

BOURNE RECREATION AUTHORITY and TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL UNION NO. 59, Case No. MCR-01-4896 (9/14/01) 28 MLC 98 (2001)

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TRUSTEES OF THE UNIVERSITY OF MASSACHUSETTS/MEDICAL CENTER and MASSACHUSETTS NURSES ASSOCIATION, Case No. SUP-4331 (9/14/01) 28 MLC 102 (2001)

COMMONWEALTH OF MASSACHUSETTS/COMMISSIONER OF ADMINISTRATION AND FINANCE and MASSACHUSETTS NURSES ASSOCIATION, Case Nos. SUP-4050 and SUP-4128 (9/19/01) 28 MLC 111 (2001)

BRISTOL COUNTY SHERIFF'S OFFICE and MASSACHUSETTS CORRECTION OFFICERS FEDERATED UNION, Case No. MUP-1820 (10/10/01) 28 MLC 113 (2001)

CITY OF LOWELL and INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 382, Case No. MUP-2299 (10/10/01) 28 MLC 126 (2001)

CITY OF MALDEN and NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, Case No. MCR-4853 (10/10/01) 28 MLC 130 (2001)

CITY OF MEDFORD and MEDFORD FIREFIGHTERS, LOCAL 1032, I.A.F.F., Case No. MUP-2389 (10/10/01) 28 MLC 136 (2001)

TOWN OF GRANBY and AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 93, AFL-CIO, Case No. CAS-3477 (10/10/01) 28 MLC 139 (2001)

BOARD OF TRUSTEES OF THE UNIVERSITY OF MASSACHUSETTS and UNIVERSITY OF MASSACHUSETTS, Case No. CAS-3190 (10/15/01) 28 MLC 144 (2001)

LOWER PIONEER VALLEY EDUCATION COLLABORATIVE and AMALGAMATED TRANSIT UNION, LOCAL 448, Case Nos. MCR-01-4868 AND MCR-01-4869 (10/15/01) 28 MLC 147 (2001)

CITY OF LOWELL and NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES/INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 382, Case No. MUP-2478 (10/15/01) 28 MLC 157 (2001)

NORTH MIDDLESEX REGIONAL SCHOOL DISTRICT TEACHERS ASSOCIATION and NORTH MIDDLESEX REGIONAL SCHOOL DISTRICT COMMITTEE, Case No. MUPL-4153 (10/23/01) 28 MLC 160 (2001)

TOWN OF BARNSTABLE and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 59 and BARNSTABLE MUNICIPAL EMPLOYEES ASSOCIATION, Case No. MCR-01-4885 (11/13/01) 28 MLC 165 (2001)

TOWN OF STONEHAM and STONEHAM POLICE ASSOCIATION, MASSACHUSETTS COALITION OF POLICE, AFL-CIO, Case No. MUP-2615 (11/15/01) 28 MLC 171 (2001)

CITY OF BOSTON and BOSTON POLICE DETECTIVES BENEVOLENT SOCIETY, Case No. MUP-1087 (11/21/01) 28 MLC 175 (2001)

PLAINRIDGE RACE COURSE, INC. and LOCAL 254, SEIU, AFL-CIO, Case No. UP-01-2647 (12/05/01) 28 MLC 185 (2001)

WORCESTER COUNTY JAIL AND HOUSE OF CORRECTION and MASSACHUSETTS CORRECTION OFFICERS FEDERATED UNION, Case No. MUP-1885 (12/28/01) 28 MLC 189 (2001)

CITY OF BOSTON and BOSTON POLICE SUPERIOR OFFICERS FEDERATION, Case No. MUP-2185 (01/04/02) 28 MLC 194 (2002)

AFSCME, COUNCIL 93 and VIRGINIA PALMA, Case No. SUPL-2725 (01/04/02) 28 MLC 196 (2002)

TOWN OF WINTHROP and INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 397, Case No. MUP-2288 (01/04/02) 28 MLC 200 (2002)

ATHOL-ROYALSTON REGIONAL SCHOOL COMMITTEE and ATHOL TEACHERS ASSOCIATION, MTA/NEA, Case No. MUP-2279 (01/14/02) 28 MLC 204 (2002)

CITY OF HOLYOKE and INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 388, Case No. MUP-2854 (01/14/02) 28 MLC 217 (2002)

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES and MICHAEL MULVANEY, Case No. MUPL-4221 (01/15/02) 28 MLC 218 (2002)

BOARD OF TRUSTEES OF THE UNIVERSITY OF MASSACHUSETTS and UNTIED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS, LOCAL 2322, Case No. SCR-01-2246 (01/18/02) 28 MLC 225 (2002)

BOARD OF HIGHER EDUCATION and MASSACHUSETTS COMMUNITY COLLEGE COUNCIL/MTA/NEA, Case No. SUP-4512 (01/23/02) 28 MLC 235 (2002)

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COMMONWEALTH OF MASSACHUSETTS and MASSACHUSETTS CORRECTION OFFICERS FEDERATED UNION, Case No. SUP-4485 (01/23/02) 28 MLC 239 (2002)

SWANSEA WATER DISTRICT and TEAMSTERS, LOCAL 251, Case Nos. MUP-2436 and MUP-2456 (01/23/02) 28 MLC 244 (2002)

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 93, AFL-CIO and GARY G. ZORZY, Case No. MUPL-4218 (01/25/02) 28 MLC 246 (2002)

COMMONWEALTH OF MASSACHUSETTS/COMMISSIONER OF ADMINISTRATION AND FINANCE and MASSACHUSETTS CORRECTION OFFICERS FEDERATED UNION, Case No. SUP-4668 (01/30/02) 28 MLC 250 (2002)

SUFFOLK COUNTY SHERIFF'S DEPARTMENT and SUFFOLK COUNTY JAIL EMPLOYEES, LOCAL 1134, a/w AFSCME, COUNCIL 93, Case No. MUP-2840 (01/30/02) 28 MLC 253 (2002)

WESTFIELD SCHOOL COMMITTEE and WESTFIELD EDUCATION ASSOCIATION, Case No. MUP-2263 (02/01/02) 28 MLC 263 (2002)

TOWN OF ANDOVER and ANDOVER POLICE PATROLMEN'S UNION, Case Nos. MUP-1012 and MUP-1186 (02/07/02) 28 MLC 264 (2002)

DEDHAM SCHOOL COMMITTEE and DEDHAM EDUCATION ASSOCIATION/MTA, Case No. MCR-01-4888 (02/08/02) 28 MLC 271 (2002)

NEW BEDFORD SCHOOL COMMITTEE and NEW BEDFORD EDUCATORS ASSOCIATION/MTA, Case Nos. MCR-4852 and CAS-3471 (02/08/02) 28 MLC 272 (2002)

CITY OF BOSTON and BOSTON POLICE SUPERIOR OFFICERS FEDERATION, Case No. MUP-2200 (02/12/02) 28 MLC 276 (2002)

WORCESTER HOUSING AUTHORITY and AFSCME, COUNCIL 93, AFL-CIO, Case No. RBA-01-149 (02/12/02) 28 MLC 279 (2002)

WORCESTER HOUSING AUTHORITY and AFSCME, COUNCIL 93, AFL-CIO, Case No. RBA-01-150 (02/12/02) 28 MLC 280 (2002)

CITY OF PEABODY and PEABODY POLICE BENEVOLENT ASSOCIATION, Case No. MUP-2162 (03/06/02) 28 MLC 281 (2002)

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 338 and MICHAEL CICCOLINI, Case No. MUPL-4225 (03/15/02) 28 MLC 285 (2002)

TOWN OF WAKEFIELD and WAKEFIELD INDEPENDENT EMPLOYEES ASSOCIATION and AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 93, LOCAL 3117, AFL-CIO, Case No. MCR-01-4922 (03/27/02) 28 MLC 290 (2002)

TOWN OF DENNIS and DENNIS FIRE FIGHTERS, LOCAL 2583, IAFF, Case No. MUP-2634 (04/03/02) 28 MLC 297 (2002)

CITY OF LOWELL and AFSCME, COUNCIL 93, AFL-CIO, LOCAL 1705, Case No. MUP-1540 (04/11/02) 28 MLC 304 (2002)

COMMONWEALTH OF MASSACHUSETTS, COMMISSIONER OF ADMINISTRATION AND FINANCE and MASSACHUSETTS ORGANIZATION OF STATE ENGINEERS AND SCIENTISTS, Case No. SUP-4740 (04/11/02) 28 MLC 308 (2002)

BOARD OF HIGHER EDUCATION and MASSACHUSETTS COMMUNITY COLLEGE COUNCIL, MTA/NEA, Case Nos. SUP-4649 and SUP-4686 (04/18/02) 28 MLC 315 (2002)

GREATER LAWRENCE SANITARY DISTRICT and GREATER LAWRENCE SANITARY DISTRICT EMPLOYEES ASSOCIATION, Case No. MUP-2581 (04/19/02) 28 MLC 317 (2002)

TOWN OF BROOKFIELD and PERTER GRAUPNER, JAMIE GRIFFIN, and KENNETH HAYES and MASSACHUSETTS COALITION OF POLICE, AFL-CIO, Case No. MUP-2538 (05/01/02) 28 MLC 320 (2002)

CAPE COD REGIONAL TECHNICAL HIGH SCHOOL DISTRICT COMMITTEE and SCOTT WOLF, Case No. MUP-2541 (05/15/02) 28 MLC 332 (2002)

PLAINRIDGE RACE COURSE, INC. and LOCAL 254, SEIU, AFL-CIO, Case No. CR-3721 (05/16/02)

COMMONWEALTH OF MASSACHUSETTS, COMMISSIONER OF ADMINISTRATION and LOCAL 509, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, A

Labor Relations Commission

MEMBER OF THE ALLIANCE, AFSCME-SEIU, AFL-CIO, Case No. SUP-4487 (05/17/02)

COMMONWEALTH OF MASSACHUSETTS, COMMISSIONER OF ADMINISTRATION and LOCAL 509, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, A MEMBER OF THE ALLIANCE, AFSCME-SEIU, AFL-CIO, Case No. SUP-4333 (05/17/02)

TOWN OF LUDLOW and INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 374, Case No. MUP-2422 (05/17/02)

TOWN OF GRAFTON and GRAFTON POLICE ALLIANCE, Case No. MCR-02-4942 (05/23/02)

CITY OF BOSTON and BOSTON POLICE PATROLMEN'S ASSOCIATION and BOSTON POLICE DETECTIVES BENEVOLENT SOCIETY, Case No. MUP-2267 (05/31/02)

COMMONWEALTH OF MASSACHUSETTS and AFSCME, COUNCIL 93, AFL-CIO, Case No SUP-3835 (06/13/02)

CITY OF BOSTON and BOSTON POLICE SUPERIOR OFFICERS FEDERATION, Case No. MUP-2448 (06/13/02)

TAUNTON SCHOOL COMMITTEE and TAUNTON EDUCATION ASSOCIATION, Case No. MUP-1632, (06/13/02)

CITY OF HOLYOKE and INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, LOCAL 388, Case No. MUP-2475 (06/14/02)

COMMONWEALTH OF MASSACHUSETTS, COMMISSIONER OF ADMINISTRATION and LOCAL 509, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, Case No. SUP-4513, (06/25/02)

CITY OF BOSTON and BOSTON POLICE DETECTIVES BENEVOLENT SOCIETY, Case No. MUP-2413 (06/27/02)

**Synopses of Selected Labor Relations Commission Decisions¹
July 1, 2001 to June 30, 2002**

The Commission conducted one strike investigation last year in United Auto Workers, Local 2322, GEO and James Shaw, et. al., 28 MLC 91 (2001) to determine whether the Union had engaged in an illegal strike by encouraging graduate instructors to turn in their grades approximately five hours after they were due. The commission also considered whether a strike had occurred when seven graduate instructors called in sick on August 16 and 17, 2001. On July 18, 2001, approximately forty-two sets of grades, out of 125, were turned in late in response to the Union's publicizing of what they deemed a "grade embargo" on its website. Twelve additional sets of grades were turned in late for unrelated reasons and without any disciplinary repercussions. Because there was also no evidence that the University had ever disciplined graduate instructors for turning in their grades late, the Commission found that the graduate instructors were not required, as a duty of employment, as defined in Section 1 of the Law and in Lenox Education Association, 7 MLC 1761, 1775 (1980), aff'd. sub. nom. Lenox Education Association v. Labor Relations Commission, 393 Mass. 284 (1984), to submit their grades on time. Therefore, their failure to turn their grades in on time did not constitute an illegal strike or withholding of services within the meaning of Section 9A(a) of the Law. The Commission also found that Union had not induced, encouraged or condoned a strike in connection with the sick-out, where the Union president had informed the Union's vice president that he thought a sick-out was a "bad" idea and where the Union did not otherwise encourage any graduate instructor, on its website or otherwise, to engage in such a strike.

In Bristol County Sheriff's Office, 28 MLC 113 (2001), the Sheriff refused to provide any information or otherwise respond to the union's two requests for information concerning its investigation of a bargaining unit member. Although it did not dispute the relevancy of the requested information, the Sheriff asserted that it would not provide any of the requested information while it was conducting an internal affairs investigation of the bargaining unit member. The Sheriff contended that its internal affairs investigators were law enforcement officials with all common law and statutory privileges accorded law enforcement personnel. The Sheriff further argued that under M.G.L. c. 4, Section 7 Twenty-sixth (f), it had an absolute privilege to withhold information about an ongoing criminal investigation when, in its own judgment, disclosure would compromise the administration of justice.

¹ This summary is not intended to be a comprehensive review of all Commission decisions that have issued during the past year. Rather, it highlights significant decisions of the Commission during that period.

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The Commission rejected those arguments, determining that if certain information were provided to the Union in a manner consistent with the protections in Boston Police Superior Officers Federation v. City of Boston, 414 Mass. 458, 461, fn. 5 (1993), the Union's need for information about the investigation outweighed the Sheriff's expressed concerns. Consistent with that decision, the Commission ordered the Sheriff to provide the Union's counsel with information subject to certain specific conditions, including redacting information to comply with the requirements of the criminal offender record information act and the rape shield law.

In City of Lowell, 28 MLC 126 (2001), the Commission held that the City violated Section 10(a)(5) of the Law when it unilaterally implemented a zero-tolerance domestic violence policy that provided in pertinent part that the City would impose discipline against any employee who commits an act of domestic violence on City property, on City time or while utilizing a City vehicle and that acts of domestic violence would be considered in promotion decisions. The policy also required any member of the police department to notify the chief of police if that individual was involved in a domestic violence incident covered by the policy or if an officer suspected a co-worker of being involved in domestic violence. In analyzing whether the City had made an unlawful unilateral change in working conditions, the Commission determined that the domestic violence policy affected a number of mandatory subjects of bargaining, including job duties and working conditions and was therefore a mandatory subject of bargaining.

In Commonwealth of Massachusetts, Commissioner of Administration and Finance, SUP-4668 (January 30, 2002), the Commission considered whether a manager's statement to a union steward to be careful because "when you swim with piranhas, you might get bit" restrained, coerced or interfered with employees in the free exercise of their rights under Section 2 of the Law. The Commission analyzed that single statement in the context of the conversation in which it occurred. That conversation began with the Union steward refusing to shake the manager's hand, because, as he told the manager, he was not a hypocrite. The conversation continued with the union steward, who also was the labor representative on the correction facilities' overtime committee, telling the manager he had the manager's time cards and he was going to "take him down." In light of those remarks, the Commission found that the manager's statement about swimming with piranhas was merely a response to the steward's goading. Moreover, the Commission held that the manager's statement did not have a chilling effect on other employees because it did not threaten future discipline or express anger, criticism or ridicule at the steward's protected activity. Therefore, the Commission held that the Commonwealth had not violated Section 10(a)(1) of the Law.

In Lower Pioneer Valley Educational Collaborative, 28 MLC 147 (2001), the Commission consolidated and considered two representation petitions filed by the Amalgamated Transit Union Local 448 (Union) seeking to represent certain school bus drivers employed by the Lower Pioneer Valley Educational Collaborative that transported school children in two separate school districts. The Collaborative maintained separate transportation facilities for each of the petitioned-for school districts. The Union argued that two separate units of drivers were appropriate because school transportation services are also provided by private vendors that fall under the jurisdiction of the National Labor Relations Board (NLRB). The Union therefore argued that the Commission should apply the NLRB's presumption in favor of finding single facility units appropriate, thereby making the units appropriate under both Commission and NLRB law.

The Commission rejected the Union's arguments and concluded that petitioned for units were underinclusive and therefore inappropriate within the meaning of the Law. The Commission found no compelling reasons to depart from its well-established precedent favoring employer-wide units of employees who share a community of interest. The Commission therefore held that a bargaining unit of all Collaborative drivers was the smallest appropriate unit that would be coextensive with the Collaborative's structure and purpose and would maximize employees' collective strength in the employment relationship.

In City of Boston, 28 MLC 174 (2001)(on appeal), the City of Boston (City) and the Boston Police Detectives Benevolent Society (Union) were parties to a compliance proceeding to determine whether the City had complied with an order issued by the Commission in 25 MLC 92 (1998)(directing the City to "upon request, bargain with the Boston Police Detectives Benevolent Society to resolution or impasse before changing the practice of assigning district sergeant detectives department vehicles on a 24-hour basis"). The narrow issue before the Commission was whether the parties had bargained to impasse when the City implemented a take-home vehicle policy to which the Union had not agreed. The City had indicated that the parties were at an end point and implemented the policy after they failed to reach agreement after a number of negotiating sessions. Although the Union objected to the City's discontinuing negotiations, it offered no counterproposals or any indication that a new proposal was forthcoming. Stating that the ultimate test of whether parties had reached an impasse in negotiations was whether there is a likelihood of further movement by either side and whether the parties have exhausted all possibility of compromise, the Commission held that even if the union had been sincere in its expressed willingness to continue bargaining over the matter, there was little likelihood that either party would or could ever present a proposal that would move the parties any closer towards resolution. Thus, the Commission concluded that the City had not failed to comply with the Commission's order when it unilaterally implemented a take-home vehicle policy.

In Plainridge Race Course, Inc., 28 MLC 185 (2001), the Commission discussed whether a Gissel bargaining order would be the appropriate remedy in a case where the Commission found that the employer had unlawfully granted a retroactive wage increase just prior to a rerun election. The Commission reviewed the standards relating to bargaining orders without an election set out in NLRB v. Gissel Packing Co., 393 U.S. 575 (1969) and Garvey Marine, Inc. 328 NLRB 147 (1999) and other Board cases, and concluded that the conduct at issue was not sufficiently serious and pervasive to warrant a bargaining order.

In the widely publicized Board of Trustees of the University of Massachusetts, Case No. SCR-01-2246 (January 18, 2002), the Commission ordered an election at the University's Amherst campus in a bargaining unit of undergraduate resident assistants (RAs) and community development assistants (CDAs), who live in the University's dormitories and monitor those dorms for twenty or more hours a week, providing programming, advising, administrative and crisis management services in return for compensation in the form of fee and housing waivers and a cash stipend. The University filed a motion to dismiss the petition for two reasons: (1) Chapter 150E does not require collective bargaining between a University and its undergraduates performing services by virtue of their status as students at the University; and (2) the Family Education Rights and Privacy Act (FERPA), 20 USC Section 1232(g) prevents the University from disclosing education records to the Commission, thereby making it impossible for the Commission's procedures to be followed. After reviewing the evidence regarding the nature of the work performed by the RAs and CDAs and the structured and detailed manner in which the University trained and monitored those employees, the Commission concluded that the employee status of those individuals rose to a level significant enough to effectuate the policies of the Law. The Commission also rejected the University's claims that its obligations under FERPA were inconsistent with effective collective bargaining, finding that the parties had a number of options available to them to resolve the potential conflicts raised by the University.

In AFSCME Council 93, Case No. MUPL-4218 (January 25, 2002), the Commission dismissed Gary Zorzy's (Zorzy) charge alleging that AFSCME had breached its duty of fair representation by, among other things, failing to file a charge of prohibited practice at the Commission on his behalf. The City of Lynn (City) had terminated Zorzy during his probationary period. Prior to his termination, the City had called Zorzy into a meeting to discuss his job performance. Zorzy asserted his Weingarten rights to have a union representative present at that meeting, and the City denied that request. The Union indicated that it could not file a grievance over Zorzy's termination because he was a probationary employee, but that it would file a prohibited practice charge on his behalf based on the City's denial of union representation. Approximately one year later, the Union informed Zorzy that it had lost his paperwork,

and suggested that he file a prohibited practice himself. Subsequently, the Union's general counsel wrote to Zorzy explaining that the Union had not filed a prohibited practice charge based on its understanding that reinstatement was no longer a remedy for a violation of Weingarten rights. The Commission dismissed the charge, reasoning that, despite the fact that the Union had lost Zorzy's paperwork, the Union had made a reasoned decision that his charge lacked merit, and Zorzy was not deprived of an opportunity to pursue a meritorious charge. Commissioner Preble concurred that the Union had not violated its duty of fair representation, but wrote separately to emphasize that, in deciding that the Union's judgment not to file a prohibited practice charge was reasoned, the Commission does not adopt the Union's suggestion that the Commission would not order reinstatement of an employee who is discharged based on information obtained during an unlawful investigatory interview.

In a pair of cases filed by AFSCME Council 93 seeking binding arbitration pursuant to Section 8 of the Law, the Commission denied the request because there was no valid collective bargaining agreement in effect at the time of the alleged contractual violation. Worcester Housing Authority, Case No. RBA-01-149 (February 12, 2002); Worcester Housing Authority, Case No. RBA-01-150 (February 12, 2002).

In Town of Dennis, Case No. MUP-2634 (April 3, 2002), the Commission held that the Town had violated Section 10(a)(5) of the Law when it unilaterally implemented increases in prescription drug and office visit co-payments without first bargaining with the Union. The Commission held, and the Town did not dispute, that generally, changes in the amount of health insurance co-payments are mandatory subjects of bargaining. The Commission rejected the Town's argument that because the Cape Cod Municipal Health Group (CCMHG), a consortium of public employers that arranged for the purchase and administration of health insurance for its constituent members had made the decision to increase co-payments, it lacked control, and therefore did not have to bargain over the decision to increase those co-payments. The Commission reasoned that the CCMHG was an organization comprised of the very parties who had a duty to bargain over health insurance decisions under Chapter 150E and therefore the Town's membership in the CCMHG did not relieve or otherwise prevent the Town from bargaining over the CCMHG's decision to increase the co-payments, and not merely the impact of that decision.

The issue in Town of Brookfield, 28 MLC 320 (2002)(on appeal) was whether the Town had violated Section 10(a)(3) of the Law by failing to reappoint three charging parties in retaliation for their union organizing efforts. In that decision, the Commission adopted the two-step analysis articulated by the Supreme Judicial Court in Wynn v. Wynn v. MCAD, 431 Mass. 655 (2000) and mandated in Lipchitz v. Raytheon Co, 434 Mass. 493 (2001). Those cases held that in mixed-motive cases where there is direct evidence of unlawful animus, the employee must first prove by a preponderance of the

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evidence that a proscribed factor played a motivating part in the challenged employment decision. The burden of persuasion then shifts to the employer to show that it would have made the same decision even without the illegal motive. The Commission found that there was direct evidence that the Town had unlawfully retaliated against one of the charging parties and therefore applied the two-step Wynn & Wynn analysis. In analyzing whether the adverse action taken against the remaining two charging parties was unlawful, the Commission used the traditional three part analysis articulated Board of Trustees of Forbes Library v. Labor Relations Commission, 384 Mass. 559 (1981), in which the burden of proving discrimination remains at all times with the employee.

In Town of Grafton, 28 MLC 399 (2002), the Commission ordered an election held in a unit comprised of all regular full-time and part-time patrol officers and sergeants. Both the Town and the union had objected to the inclusion of part-time employees in the proposed bargaining unit on the ground that no such positions existed. The Commission rejected that argument, reasoning that to exclude part-time employees would conflict with the Commission's well-established case law and policy of including regular part-time employees who share a community of interest with full-time employees in the same bargaining unit. The Commission also noted that the current collective bargaining agreement with the incumbent union referenced part-time employees.

In Taunton School Committee, 28 MLC 378 (2002) (on appeal), the Commission determined that the school committee's decision to impose block scheduling as a means of effectuating federal "time in learning requirements" was a mandatory subject of bargaining.

In City of Boston, MUP-2413 (June 27, 2002), the Commission concluded that the City and the Union had reached impasse in their negotiations over the impact of the City's decision not to fill a vacant bargaining unit position. The Commission reviewed the parties' bargaining history and found that even though there had only been four hours of bargaining, there was no evidence that the union had made any proposals concerning the impact of the City's otherwise lawful decision, there did not appear to be a likelihood of further movement by either side, and the parties had apparently exhausted all possibility of compromise. Therefore, the Commission concluded that the City had not violated the Law when it made certain unilateral changes.

Litigation Activity

I. Decisions Issued

1. Collective Bargaining Reform Association v. Labor Relations Commission, 463 Mass. 197 (2002). Collective Bargaining Reform Associates filed an action in Superior Court attempting to appeal from the Commission's decision dismissing a representation petition seeking to sever communication equipment operators from a larger unit of City of Boston employees. The Superior Court dismissed the complaint the grounds that the Commission's decision was not subject to judicial review under M.G.L. c. 30A, §14. Relying on Jordan Marsh Co. v. Labor Relations Commission, 312 Mass. 597 (1942)(arising under different collective bargaining statute), and City Manager of Medford v. Labor Relations Commission, 353 Mass. 519 (1968)(same), the Supreme Judicial Court affirmed the Superior Court's conclusion, specifically rejecting the appellant's argument that the Commission dismissal was a final order within the meaning of Chapter 30A, §14. The Court reiterated that, except in extraordinary circumstances, which it did not find to be present here, Commission orders in representations proceedings were not entitled to judicial review; parties may only seek review of certification decisions after there has been a Commission decision based upon a related unfair labor practice.

2. Theodus Jordan v. Labor Relations Commission, A.C. No. 00-P-1060 (March 7, 2002). An appeal from a pre-complaint dismissal finding that the Boston Teachers Union, Local 66 (Union) had not breached its duty of fair representation by failing to enforce two 1990 settlement agreements between the Union and the Boston School Committee. The Appeals Court issued a decision pursuant to Rule 1:28 concluding that the Commission's pre-complaint dismissal was well-supported and that the Commission had not abused its considerable discretion in finding the charging party's charges to be untimely.

3. AFSCME v. LRC, A.C. No. 99-P-834 (August 6, 2001). An appeal from a pre-complaint dismissal concluding that the City of New Bedford had not repudiated an agreement regarding personal leave for emergency medical services personnel employed by the City. In a ruling issued pursuant to Rule 1:28, the Appeals Court affirmed the Commission's order, stating that the record before the Commission amply supported its decision and would have warranted dismissal had the decision been analyzed under the rigorous standards applicable to motions for summary judgment under the Massachusetts Rules of Civil Procedure. The Court also agreed with the Commission's conclusion that there was no need for an evidentiary hearing in this case.

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4. Dale Wilson v. Labor Relations Commission, A.C. No. 00 - P-598 (April 3, 2002) An appeal of a pre-complaint dismissal (after remand) of a charge alleging a union breached the duty of fair representation by precluding an employee from presenting certain evidence at an arbitration. The Appeals Court affirmed the Commission's dismissal of the charge in a ruling issued pursuant to Rule 1:28, discerning no error in the Commission's determination that the employee had failed to show that the union had acted in an arbitrary or perfunctory or inexcusably neglectful manner.

5. Mansfield v. LRC, A.C. No. 99-P-1215 (April 12, 2002). An appeal from a full Commission decision holding that the Town of Mansfield violated Sections 10(a)(1) and (5) of Chapter 150E by failing to bargain with the Union about the impacts of eliminating patrol officer positions from a split shift. In a ruling issued pursuant to Rule 1:28, the Appeals Court affirmed the Commission's decision, rejecting the Town's arguments that its decision had only a *de minimis* impact on the bargaining unit, that requiring it to bargain over the impact of its decision interfered with the Town's ability to determine important municipal policy, and that the union had waived its right to bargain over the impacts of the decision. The Commission had held that the Town had presented the union with a *fait accompli* when it gave the employees only a few days to apply for their new shifts and the Court held that this was within the Commission's discretion and specialized expertise. The Supreme Judicial Court rejected the Town's application for further appellate review.

5. Massachusetts Correction Officers Federated Union v. Labor Relations Commission 99-P-1057 (May 2, 2002). An appeal from a pre-complaint dismissal finding that there was insufficient probable cause to believe that the Commonwealth had unilaterally assigned new cleaning duties to correction officers without giving the Union prior notice or an opportunity to bargain. In a ruling issued pursuant to Rule 1:28, the Appeals Court concluded that the Commission had acted within its discretion in dismissing the Union's charge because there was not probable cause to believe that there had been an unlawful change in the unit members' job duties.

6. City of Westfield v. Labor Relations Commission, A.C. No. 00-P-1981 (June 19, 2002). An appeal from a full Commission decision concluding that the City of Westfield violated Sections 10(a)(5) and (1) of Chapter 150E by unilaterally discontinuing its practice of allowing employees to remain on injury leave until they are physically able to return to their regular duties. The Appeals Court affirmed the Commission in a Rule 1:28 decision, finding that the Commission's decision was supported by substantial evidence. The Court further found that the Commission had not committed an error of law when it concluded that the union had not waived its right to bargain by contract, deferring to the Commission's and not the employer's interpretation of the contract.

II. Pending Cases

Worcester v. LRC, SJC-7812. An appeal from a full Commission decision holding that the City of Worcester violated Section 10(a)(1) and (5) by failing to bargain with the Union about the impacts of a decision to designate police officers as supervisors of attendance. The Appeals Court reversed the Commission in part, finding that the City of Worcester had an obligation to bargain about the decision as well as the impacts of the decision. The City of Worcester sought further appellate review of that decision and the Supreme Judicial Court granted the City's application. The SJC heard oral argument on September 5, 2002.

Fowler v. LRC, A.C. No. 200-P-0451. An appeal from a full Commission decision concluding that the Boston Water and Sewer Commission did not violate Sections 10(a)(1) and (3) of Chapter 150E by discharging an employee for engaging in organizing activity. The Commission determined that the evidence did not demonstrate that the Employer had knowledge of the employee's concerted, protected activity. The Appeals Court heard oral arguments in March 2002.

Town of North Attleboro v. Labor Relations Commission, A.C. No. 01-P-0026. An appeal from a full Commission decision holding that the Town of North Attleboro had violated Sections 10(a)(5), (2), and (1) of Chapter 150E by refusing to implement an authorized increase in union dues deductions. The Appeals Court heard oral argument on September 11, 2002.

Massachusetts Organization of State Engineers and Scientists v. LRC, A.C. No. 2000-P-647. An appeal from a full Commission decision concluding that the Employer did not change an established practice of paying employees an in-service bonus. The Appeals Court heard oral argument in January 2002.

Sullivan v. Labor Relations Commission, A.C. No. 01-P-0122. An appeal from a pre-complaint dismissal concluding that the charge was untimely and that the Commission's investigation did not reveal sufficient facts to establish probable cause to believe that the Brookline Firefighters, Local 950, IAFF had breached its duty of fair representative to the appellant. The parties completed briefing on June 7, 2001.

City of Boston v. Labor Relations Commission, A.C.01-P-620. An appeal from a full Commission decision holding that the City had illegally transferred police patrol duties at public housing projects to the municipal officers who were not part of the patrolmen's bargaining unit. The Appeals Court will hear oral argument on November 13, 2002.

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City of Fall River v. Labor Relations Commission, A.C. 01-P-307. An appeal from a full Commission decision finding that the City had failed to bargain over the decision to transfer fire dispatcher duties to non-bargaining unit personnel. The parties completed briefing on July 7, 2001.

N.A.G.E. v. Labor Relations Commission, A.C. 01-P-1507. An appeal from a pre-complaint dismissal finding that there was insufficient evidence to show that the respondent, Essex County, was a public employer within the meaning of Section 1 of the Law. The parties completed briefing on February 4, 2002.

Worcester County Sheriff v. Labor Relations Commission, A.C. 01-P-1628. An appeal from a full Commission decision holding that the Sheriff had unlawfully implemented a policy prohibiting the wearing of union buttons on uniforms and that the Sheriff's policy against union buttons interfered with, restrained and coerced employees in the exercise of the Section 2 rights. The parties completed briefing on April 1, 2002.

Commonwealth of Massachusetts v. Labor Relations Commission, A.C. No. 01-P-1381. An appeal from a full Commission decision concluding that the Employer had unlawfully transferred certain supervisory duties performed previously by Residential Supervisors II's employed by the Commonwealth's Department of Mental Retardation in a collective bargaining unit represented by Local 509 to employees outside of that bargaining unit. The parties completed briefing on June 3, 2002.

Gable v. Labor Relations Commission, A.C. No. 02-P-141. An appeal from a pre-complaint Commission dismissal finding no probable cause to believe that the charging party's union had violated its duty of fair representation by failing to arbitrate the charging party's grievance over his non-reappointment to a tenure-track position. The parties completed briefing on July 10, 2002.

IAFF, Local 66 v. Labor Relations Commission, A.C. No. 02-P-196. An appeal from a pre-complaint dismissal of a prohibited practice charge on the grounds that it was untimely. The parties completed briefing on June 10, 2002.

Notes

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Labor Relations Commission

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